

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

EDWIN MARTINEZ,

Plaintiff,

v.

Case No. 24-cv-0951-bhl

MARTIN J. O'MALLEY,

Commissioner for Social Security Administration,

Defendant.

**ORDER GRANTING MOTION FOR LEAVE TO PROCEED
WITHOUT PREPAYMENT OF THE FILING FEE**

On July 26, 2024, Plaintiff Edwin Martinez filed a complaint seeking review of a decision by the Commissioner for Social Security. (ECF No. 1.) That same day, he also filed a motion for leave to proceed without prepayment of the filing fee or *in forma pauperis* (IFP) utilizing the Court's local form. (ECF No. 2.) The Court has authority to allow a litigant to proceed IFP if it determines that (1) the litigant is unable to pay the costs of commencing the action and (2) the action is not frivolous, does not fail to state a claim, and is not brought against an immune defendant. *Cf.* 28 U.S.C. § 1915(a)(1), (e)(2).

In his motion, Martinez states his only income is \$291.00 per month in food stamps benefits and \$180.00 "help from friend." (ECF No. 2 at 2.) He also states he has no assets other than a Scion XA vehicle valued at \$1,500.00. (*Id.* at 3.) Based on Plaintiff's representations, which includes a signed declaration under penalty of perjury, the Court concludes that Plaintiff cannot afford the filing fee.

This does not end the matter, however. As part of evaluating an IFP request, the Court must also review the complaint for sufficiency. If the complaint fails to state a claim on which relief may be granted or is frivolous, it must be dismissed. *See Luevano v. Wal-Mart Stores, Inc.*, 722 F.3d 1014, 1018 (7th Cir. 2013); 28 U.S.C. §1915(e)(2)(B)(i). Here, Martinez timely invoked this Court's jurisdiction pursuant to 42 U.S.C. § 405(g). (ECF No. 1 at 1.) He argues that the administrative law judge decision denying his claim for Social Security benefits is not supported

by substantial evidence and is contrary to law. (*Id.* at 2.) This is not frivolous and states an arguable claim. As a result, the Court will grant Martinez's request to waive prepayment of the filing fee.

IT IS HEREBY ORDERED that Plaintiff Edwin Martinez's motion for leave to proceed without prepayment of the filing fee, ECF No. 2, is **GRANTED**.

Dated at Milwaukee, Wisconsin on July 30, 2024.

s/ Brett H. Ludwig

BRETT H. LUDWIG

United States District Judge